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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

UNITED STATES OF AMERICA,

Case No. 3:15-cr-00438-JO-1

Plaintiff,

**EMERGENCY MOTION TO
POSTPONE SELF-SURRENDER
PENDING BOP DESIGNATION OF
INSTITUTION**

v.

WINSTON SHROUT,

Defendant.

The defendant, Winston ShROUT, through his attorney, Ruben L. Iñiguez, respectfully moves the Court to postpone today's 2:00 p.m. self-surrender deadline to afford the Bureau of Prisons (BOP) sufficient time to complete the institution designation process. The government, through Tax Division Trial Attorneys Stuart A. Wexler and Lee F. Langston, most likely opposes this motion.¹

¹ Defense counsel was unable to communicate directly by telephone with counsel for the government to determine the government's position. It is fair to assume, however, that the government opposes this motion.

MOTION

On October 22, 2018, the Court imposed sentence. ECF 160. Among other things, the Court ordered Mr. Shrout to “surrender for service of sentence *at the institution designated by the Bureau of Prisons* by Monday, November 25, 2018 by 2 p.m.” *Id.* (emphasis added).² The Amended Judgment now directs Mr. Shrout to “surrender for service of sentence at the institution designated by the Bureau of Prisons: on Monday, November 26, 2018 no later than 2 p.m. as notified by the United States Marshal.” ECF 164 at 3.

The Court recommended to the BOP that Mr. Shrout “be incarcerated in Sheridan Federal Prison Camp (FPC).” ECF 164 at 3. As of this morning, however, the BOP has not designated the FPC or any other particular institution as the place for incarceration. As a result, the Pretrial Services Office recently directed Mr. Shrout to “turn yourself in to the US Marshals Service in Portland, OR by 2pm on Monday November 26, 2018.” Email from Chris Song dated November 19, 2018.

The recent directive from the Pretrial Services Office conflicts with the Amended Judgment. As noted above, the Court ordered Mr. Shrout to self-surrender “at the institution designated” by the BOP. ECF 164 at 3. While the judgment form contains

² The Court subsequently amended the Judgment to correct a clerical mistake. ECF 164. The Amended Judgment correctly lists the surrender date as Monday, November 26. *Id.* at 3.

alternative language regarding voluntary surrender, the Court chose not to order that Mr. Shrout “surrender to the custody of the United States Marshal for this district.” *Id.*

If Mr. Shrout surrenders to the U.S. Marshals Service in Portland before the BOP completes the designation process, he will be incarcerated in a local county jail—either Multnomah County or Columbia County. He will be held there for an indeterminate period while the BOP completes its designation of an appropriate federal institution. Mr. Shrout will not receive the medical care and treatment he requires in a county jail. As the Presentence Investigation Report correctly noted, at age 70, Mr. Shrout requires considerable medical and care. PSR at ¶61. He suffers from several physical impairments, including hip replacement, multiple herniated lumbar discs, severely impaired mobility, moderate-to-severe chronic pain, double hernia surgery, and cataracts. He also requires mental health treatment. While the BOP may be able to provide adequate care, the local county jails are not equipped to do so. Moreover, although he already has been sentenced, if Mr. Shrout is required to surrender today, he will be held in the local county jail with detainees who have been arrested or are pending trial.

CONCLUSION

For each of the foregoing reasons, Mr. Shrout respectfully requests that the Court enter an Order postponing today’s 2:00 p.m. surrender deadline and directing him to

surrender at the institution designated by the Bureau of Prisons, as directed by either the U.S. Pretrial Services Office or the U.S. Marshals Service.

RESPECTFULLY submitted this 26th day of November, 2018.

/s/ Ruben L. Iñiguez

Ruben L. Iñiguez

Attorney for Defendant